CASE#_____

(1)

IN THE SUPREME COURT OF THE UNITED STATES

Supreme Court, U.S.
FILED
05 29 JUN 25 2005
Supreme Court, U.S
OFFICE OF THE CLERK

CALVIN P. ROACH
PETITIONER

v.

Hon. Judge Desens, Hon. Phillip Espinosa, Pima County, Arizona
County and the State of Arizona

ON PETITION FOR WRIT OF CERTIORARI
FROM NINETH CIRCUIT COURTS OF APPEAL
CASE: CV-04-00001-FRZ

June 26. 2005

October Term beginning October 2004.

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IN THE SUPREME COURT OF THE UNITED STATES

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Questions Presented

I. Whether or not the Federal Courts were correct for dismissing a 28 USC 1331 complaint under 42 USC 1983 grounds?

II. Whether the Rooker-Feldman doctrine can be used as a shield for judicial corruption?

III. Whether a Motion to Dismiss can substitute a Motion to Appear for defendants?

List of Parties:

The parties to the Federal Questions are Hon. Judge Desens, Hon. Phillip Espinosa, Pima County, Cochise County and the State of Arizona.

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OPINION

The opinion of the court of appeals CV-04-00001-FRZ in Appendix

CITIATION TO OFFICIAL AND UNOFFICIAL REPORTS

Arizona District Court Decision

Calvin Roach v. Hon. Judge Desens, Phillip Espinosa, State of Arizona, CV-04-00001-FRZ

Ninth Circuit Court Descision,

Calvin Roach v. Hon. Judge Desens, Phillip Espinosa,

State of Arizona, 04-16178

JURISDICTION

The United States Court of Appeals has entered a decision in conflict with the decision of another United States of Appeals and the United States Supreme Court on the same important matter.

CONSTITUTIONAL PROVISIONS AND STATUTES INVOLVED

Flander v Coleman 1919, 250 US 223
O'Connor v. O'Connor

(1963), 315 F.2d 420
Pulliam, magistrate for the county of Culpeper,
Virginia v. Allen et al, (1984), 466 U.S. 522

Federal Rules of Court Rule 1.7(a)

STATEMENT

This suit arises from several state proceedings against me and other men in civil cases. On January 2, 2004, after learning of judicial prejudice in Arizona Superior Court of Cochise County and the Arizona Courts of Appeals, Division II. I have been threatened by my ex-wife (wife at the time) by a gun on numerous occasions and complained to the Sierra Vista police department, and the police told me that the only way that they would get involve is if I was to get shot, or someone else hear the threat or to try to record her threatening me. I recorded several of our conversations but I did not record her threatening me. I was later but was convicted of domestic violence in trying to protect my life; I continued to represent myself because no attorney would represent me and the conviction was later vacated for United States Constitutional violation. I then submitted the tape I recorded to the State Court after I filed for a divorce. The judge ruled against me. At the same time, I was facing a lawsuit from a local home builder in front of Hon. Judge Collins, another Cochise County Superior Court judge. He initially judge ruled in my favor but after I filed an appeal to my divorce, he changed his ruling and held me liable for more than $12,000 when the defendant requested under $2,000.

I later learned that another Cochise County Superior Court judge ruled against a man based on sex in a divorce hearing stating that the law is to harsh against women so he r[illegible]used to give the man custody of his daughter.

He appeals and received custody of his daughter but the Court of Appeals refused him attorney fees. The Arizona Court of Appeals ruled in the divorce case against me and lied in a few areas so I filed under ***28 USC 1331*** federal question of law. One of the reliefs sought was that the district court has the FBI prosecute the case if I prove that these judges lied to support their court orders. The district court dismissed the complaint under the Rooker-Feldman doctrine and ***42 USC 1983*** but failed to dismiss the complaints against Pima County. But the District court did not grant the State Attorney General request to give the judges immunity. I appealed to the Ninth Circuit court and the Ninth Circuit Court affirmed the district court decision. They also dismissed some of the complaints because they lack merit.

DISCUSSION

Whether or not the Federal Courts were correct when the dismissed a 28 USC 1331 complaint under 42 USC 1983 grounds?

I feel that my complaint should have been heard because the United States Supreme Court stated in **Flanders v. Coleman, 250 US 223, 1919,** that jurisdiction must be determined not upon the conclusion of the merits, instead on the grounds that the jurisdiction is invoked. Since all bias violations by state judges in legal proceeding violate US Constitutional rights, wouldn't that mean that a state judge cannot be punished for his actions while performing judicial duties? If so, that would contradict **PULLIAM, MAGISTRATE FOR THE COUNTY OF CULPEPER, VIRGINIA v. ALLEN ET AL, (1984), 466 U.S. 522**

> ***"n21 The Court assumed that the judge was performing a ministerial rather than a judicial function. It went on to conclude, however, that even if the judge had been performing a judicial function, he would be liable under the statute. 100 U.S., at 348-349"***

For this reason I feel that this case should not be dismissed.

Whether the Rooker-Feldman doctrine can be used as a shield for judicial corruption?

The Rooker-Feldman discusses federal jurisdiction in over-riding state court decisions. If the Rooker-Feldman doctrine is meant to separate federal jurisdiction on all state actions, wouldn't that doctrine contradict a previous United States Supreme Court decision, **PULLIAM, MAGISTRATE FOR THE COUNTY OF CULPEPER, VIRGINIA v. ALLEN ET AL, (1984), 466 U.S. 522.**

> ***"When the question is whether a federal court should enjoin a pending state-court proceeding, "even irreparable injury is insufficient unless itis 'both great and immediate.'" Younger v. Harris, 401 U.S. 37, 46 (1971), quoting Fenner v. Boykin, 271 U.S. 240, 243-244 (1926). See discussion at n.19, infra"***

This case alleges deprivation of federal guaranteed rights and in the case **O'Connor v. O'Connor, (1963), 315 F.2d 420,** the federal courts was given jurisdiction over that case for the same reasons. Because this case deals alleges judicial corruption and the Rooker-Feldman cases dealt with federal courts over-ruling state decisions, I feel that the Rooker-Feldman doctrine doesn't apply.

Whether a Motion to Dismiss can substitute a Motion to Appear for defendants?

Rule 1.7(a) of the Rules of Practice of the United States District Court for the District of Arizona (the Local Rule) states that "no attorney shall appear in any action or file anything in any action without first appearing as counsel of record,..." Attorneys for Hon. Judge Desens and Hon. Judge Espinosa did not file any Motions to Appear before filing several Motions to Dismiss the complaint. These action by the attorneys made it very confusing because each defendant had multiple attorneys.

REASONS FOR GRANTING THIS WRIT OF CERTIORARI

This Writ of Certiorari addresses issues not previous ruled on and alleges judicial biasness and corruption; therefore I request that the United States Supreme Court should grant this Writ of Certiorari.

CONCLUSION

I request that the Ninth Circuit Court decision be over-turned and that this case go to trial.

Respectfully Submitted June 28, 2005.

CASE#_____ (2)

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CALVIN P. ROACH

PETITIONER

v.

Hon. Judge Desens, Hon. Phillip Espinosa, Pima County, Clerk County and the State of Arizona

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APPENDICE

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Appendix A

Federal Law Suit Complaints

CALVIN P. ROACH

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IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF ARIZONA

CALVIN ROACH	)	
PRO SE, PLAINTIFF	)	
vs.	)	
STATE OF ARIZONA	)	**Suit for Performance**
And	)	**Abide by State and**
	)	**Federal**
Cochise County	)	**Statutes**
And	)	**and U.S. Constitutions Hon. Hon. Judge**
Desens,)	**Obey the Law**	
Hon. Judge Phillip Espinosa,	)	**and Violations of US**
Pima County,	)	**Constitutional Rights**
	)	
The Court of Appeals	)	
In The State of Arizona	)	
Division II and	)	
The Superior Courts	)	
of Arizona in the County of	)	

Cochise)

Jurisdiction

1. This Court, *District Court of Arizona has jurisdiction over all US* Constitutional issues arising from any State Court in the State of Arizona per 28 USC 1331 and the United States Constitution.

Complaints and Questions:

Violation of US Constitutional Rights and Federal Law

Complaint I

2. Judge Desens, Mr. Raemaker, the attorney that was suppose to represent me and Mr. Farro divided up my military retirement pay incorrectly. I agreed to the stipulation not knowing that the agreement was done in bad faith with fraudulent intent. The division that my attorney conspired with Hon. Judge Desens and the opposing party was just to subtract my disability pay from my total retirement pay. After finding out that the retirement was divided up improperly and under bad faith, the Court of Appeals, Division II refused to correct the issue. That term of the agreement was made in the judge's chambers with by the attorneys and judge. I was intentionally provided misleading information by the attorney and supported by the judge; therefore, the agreement is void. Instead, Hon. Phillip Espinosa stated that it was divided up properly. 10 USC 1408 clearly states that the State can divide disposable amount. The disposable amount as intended by Congress set forth by the 97th Congress in P.L. 97-252 states, **"Disposable retired or retainer pay means the total monthly retired or retainer pay to which a member is entitled (other than retired pay for disability...) less the amounts (A) are owed by the member to the United States; (B) are required by law to be deducted from the retirement or retainer pay (C) are properly withheld Federal, State, or local tax... etc."** There have been changes to 10 USC 1408 since the 97th Congress but none of the changes changed Congress intent. They were clerical changes. Arizona Doesn't 10 USC 1408 mean that disposable pay is not just gross pay minus disability?

Complaint II

3. Judge Desens, an experience Judge ordered me to pay double on Medical and Dental Care for my son and Step-Son. The Judge knew or should have known that my son Jarod is covered as part of my military retirement benefit. Instead of the Judge ruling by law, he ruled what my ex-wife and her attorney desired. The Courts of Appeals overturned that part of Judge Desen's order but did not sanction the Judge. The Order from the Court of Appeals is somewhat confusing as it did not address the fact that my child is receives military entitlement which covers his dental and medical. The Judges in Cochise County often neglects to abide by the law because they know that the Court of Appeals lack judicial fortitude to discipline them. In **Diezsi v. Diezsi, 201 Ariz. 524; 38 P.3d 1189,**

Hon. Judge Hoggart, a Superior Court Judge in the County of Cochise stated that he was not going to abide by the law and he did not in favor for the woman. Mr. Diezsi appealed and the Judge was ordered to obey the law. The Judge was never sanctioned for his part in violating Mr. Diezsi US Constitutional Rights. Do State judges must comply with both State and Federal laws and don't military benefits of Medical and Dental care satisfy the obligation to provide that medical and dental care, especially if those were the vehicle of care that the children has been receiving?

Complaint III

4. Judge Desens and the Court of Appeals allows for State Statutes to be used as a tool to commit fraud. My ex-wife stated under oath coached by her attorney Mr. Farro that she needed $1200 per year to keep my son Jarod enrolled in the program that she enrolled him in to include the summer program. I entered evidence that Terri did not have Jarod enrolled in the programs that she claimed she had also that evidence showed that I paid for his enrollment and finally the amount was nowhere near $1200 a year. The courts either intentionally refused to review the evidence or neglected the evidence so that my ex-wife could perfect using the legal system to commit fraud and or extortion. As childcare rates increases, in the last two years my ex-wife barely used $1200 in childcare cost. In 2002, she used approximately $588.00 and in 2003 she used approximately $747.00, and she never enrolled my son in the summer program that she is receiving the extra money for. Hon. Judge Espinosa and the Court of Appeals stated by there ruling that it is allowable because of State Statute. I am protected under the United States Constitution, mainly the 14th Amendment that no state shall create any law or procedure that will abridge the rights or privileges of a person. The State knowingly allowed Arizona Revised Statutes for illegal enforcement purposes. Can the State create and enforce those laws to perfect fraud? Can the State honor claims amount without evidence of the claim and amount of the claim?

Complaint IV

5. Hon. Judge Espinosa and the Court of Appeals basically misstated Court records in attempt to protect attorney Michael Farro in his spree of making false statements concerning my income and his client's income. The attorney had stated several times that his client made about $2,000 when in fact she made over $3400. When my ex-wife was cross examined about her income Mr. Farro stated that he made a mistake and she made $28XX per month as written in the Court Records. Hon. Judge Espinosa states that the memorandum decision from the Court of Appeals that the attorney stated $3,000. The action by the Court of Appeals and the Superior Court for the County of Cochise lacks integrity and truthfulness. Are State judges allowed to misstate fact that is stated in Court Transcript?

Complaint V

6. Hon. Judge Espinosa agrees that the Hon. Judge Desen failed to abide by Arizona Revised Statute and claims his failure to abide by the statute is not abuse of process. Hon. Judge Espinosa makes claims that because I did not disclose the

fact that Hon. Judge Desen did not abide by the statute that I have no claim. This ruling violates my US Constitutional rights based on the fact that the government is punishing me for errors that was committed by the government thereby the government is using procedures to violate my US Constitutional Rights. The Court of Appeals Memorandum Decision states: **"The trial judge made no specific findings related to custody as required by ARS 25-403(J)."** When the Judge do not follow the law, doesn't he commit abuse of process and isn't abuse of process a violation of United States Constitution. Are Judges allowed to pick and chose which State Statute or sections thereof to follow and can I, a citizen of the United States be held responsible because the Judge failed to follow the State Law?

Complaint VI

7. Hon. Judge Espinosa stated that Hon. Judge Desens made finding only on custody, child support and attorney fees. That is extremely incorrect because the Court publishes its findings. After considering all of the evidence, the Court stated all issues to be enforced. The Court did not divide up any portion of my retirement, an option that the judge have. The attorney after seeing that Hon. Judge Desen did not give his client all he asked for, the attorney just added what he wanted. Can the Court of Appeals say what the Judge ruled on when other than what the Judge made in the findings in the Court Minute Entry?

Complaint VI

8. I am being punished by the State because Terri elected to have an illegitimate child. The Court subtracted my ex-wife's obligation for her illegitimate son from her obligations to our son. By doing that, it increases the percentage that I must pay. The 14th amendment guarantees me Equal Protection of Law. That amount should also be subtracted from my income as well. That way due process is not violated. There is no benefit to the government to allow for this type of abuse. The government is promoting women to have illegitimate children because of the extra benefit obtained. Can the State accept and enforce claims made by individuals that deprive citizens of the United States property without verifying that such claim exists?

Complaint VII

9. The court allows my ex-wife to violate Equal Protection of Law between my son and his half-brother and between myself and my ex-step-son's father. My ex-wife elected not to receive any support from her first born son father but for me to pay child support. There have not been any evidence submitted to the Court why her Justin, her 1st born son, father cannot pay child-support. My support percentage increases because they lower her percentage because she must support her son from a different relationship. The court also allowed her to discriminate between the sons by not allowing her oldest son to have any contact with his father where as my son does have contact with me, his father. This statement should not be taken out of context because I want to be in my son's and ex-stepson's life and have contact with them forever. The children are purposely treated unequal. Can the State allow people to threat children unequal or must the State make the parent treat both

children equal?

Complaint VIII

10. Arizona Child Support Guideline or how the Court enforced the Child Support Guidelines is unconstitutional based on the fact that it abridges my Federal Privileges under the IRS 125 plan also known as the Cafeteria Plan by adding additional monies on top of the base obligations defined in ARS 25-320. The federal government allows all citizens to set aside certain monies from their earning to be taxed exempt for medical, dental and childcare. The State abridges that privilege by adding that money on top of my child-support obligation. The State has ways to tax me for child-care obligations and not abridge my federal privileges. Can the State deprive me of the same rights and privileges of other citizens of the State of Arizona and United States when there are ways for the State to accommodate those privileges and rights, such as have me to receive statement of how much the childcare for the following month is and to pay it the same way I pay portions of my retirement to her?

Complaint IX

11. The Family Court in the State of Arizona has created an unjust atmosphere in the County of Cochise and signaling to women that the Court will discriminate against the man regardless of faults. In **Diezsi v. Diezsi, 201 Ariz. 524; 38 P.3d 1189,** the judge made it clear that he would not enforce the law unless he is forced to, in Stimmel v. Stimmel, I have been told that Hon. Judge Raemaker awarded the woman attorney fees when she never requested that she wanted too. After the judge made the final ruling and she did not get all that she wanted, she then went back and requested attorney fees. In Sierra Homes Remodeling v. Calvin Roach, Hon. Judge Collins ruled that there may be intrinsic fraud committed by Sierra Homes. After I filed my appeal in the divorce case, Hon. Judge Collins reversed his original order in favor to Sierra Homes. Also, Sierra Homes only asked for less than $2,000 in their Summary Judgment. He awarded them more than $10,000. This atmosphere created by the Courts in the State of Arizona that women can treat males at any age any way. On April 11, 2003 about 7PM, my ex-stepson knocked on my door telling me that he wanted to live with me because things his mother has done. I allowed him in and took care of him. His mother never made any attempts to call me to let me know that he were on his way over nor did she have any meaningful communications with him. During his stay with me, he had never spent more than five minutes with his mother other than when she was dropping his clothes and games off. For the longest, I had to but my ex-stepson clothes because he told me that she was holding his stuff for damages. On Justin's birthday (ex-stepson), Terri never made any attempts to be with him. A few weeks after Terri dropped some of Justin's clothes off, Justin cut him-self jumping off the bed into a window. If he would have been cut seriously it would have been hard to get him medical care because I did not have any medical insurance information for him. On April 16, 2003, I had to call Terri to coordinate getting Justin coat. When he came over he was sick, with a cold. Shouldn't the State be obligated to oblige by the law and should those who willfully neglect the law be held responsible, for it is

the State misconduct the reason Terri shows that males at all ages do not have any rights?

Complaint X

12. Can the Court of Appeals state that I admitted to a domestic violence incident when all I have done is state the fact of what happened? I admitted that I hit my ex-wife with a plate. I also submitted in court evidence of a tape that the police told me to make because they would not do anything when I complained to them that my ex-wife had threatened to shoot me and that she'll get away with it because uniform sticks together. I was unsuccessful in recording one of her threats between the time I started recording and the time of the incident. It is too hard to have a pocket tape recorder on at all times or be next to one every minute. In the Court transcript I never admitted guilt. I only admitted that I was sorry. The reason I admitted that was because how I was treated by members in the State legal system. I strongly felt that I should have let her shoot me and hope that I would survive and then I may get justice and due process. I was convicted of domestic violence and the conviction was vacated on US Constitutional violations. Can the Courts hold an incident against me that I was wrongfully convicted and eventually the conviction was vacated?

Complaint XI

13. The State of Arizona Superior Court fro the County of Cochise and the Court of Appeals, Division II makes it common practice to not rule according the State and Federal Law. The Court uses economics for fathers to get adequate time with their child as in **Diezsi v. Diezsi, 201 Ariz. 524; 38 P.3d 1189,** where the father had to spend money for an appeal just to have the Court of Appeal refuse him collecting attorney fees, even though the Government erred. In case D0200000410 and 2 CA-CV 2001-0215, the Court of Appeals and the Cochise County Superior Court caused me money to enjoy my US Constitutional Rights? For the Arizona Supreme Court to review my case, I would have to pay $1,000. Can the Courts in Arizona use economics as a way to prevent fathers from enjoying their US Constitutional Rights and Privileges?

Demands

14. I demand that the trial case # 2 CA-CV 2001-0215 (D0200000410) removed from the Jurisdiction of State Courts of Arizona, County of Cochise and the Court of Appeals Division II that is located in Tucson Arizona and be delivered to a Superior Court in the County of Maricopa and Division I Courts of Appeals in the State of Arizona. All cost related to this case be taxed to Pima County and Cochise County. The State and counties are obligated by Federal Constitution that every citizen of the United States is obliged a fair trial, due process, both administrative and judicial – that processed I was not afforded. This is to include that the Orders giving in this case by the Superior Courts of Arizona and The Court of Appeals be vacated.

15. I demand that all of the Judges and citizens in the State of Arizona to include the Judges that are parties to my divorce case be held responsible for their

malice acts. The United States Constitution gives State judges absolute immunity from civil remedies only.

16. I demand that the State of Arizona be sanctioned and ordered to obey their State laws, rules of procedures and statutes and not to attempt to cover up others misconduct.

17. I demand that the Federal Bureau of Investigation (FBI) or other Federal agency investigate the family court practices of the last seven years that were held in the County of Cochise to determine the extent of damage the Judges of the Superior Court for the County of Cochise has caused as well as fraudulent or bias findings and rulings. Upon final determination Judges that had taken part to misuse the judicial system be held responsible for their acts.

18. I demand that I be protected from the State of Arizona from all criminal and civil allegations that they may try to trump me with arising from prior till the conclusion of this case.

19. I demand that everyone involved that conspired against me by violating 10 USC 1408 and my Constitutional Rights be held responsible under Federal Statutes and Titles.

Dated: 02 Jan 2003

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Appendix B

District Court Decision

UNITED STATES DISTRICT COURT

DISTRICT OF ARIZONA

Calvin Roach	)
Plaintiff,	) Judgment in a Civil
vs.	) CV-04-0001-TUC-
State of Arizona;	) FRZ (NFF)
Cochise County; Hon. Judge Desens;	)
Pima County; Hon. Phillip Espinosa	)
Court of Appeald Div. II; and the	)
Superior Courts of Arizona in the	)
County of Cochise	)
Defendants.	)

DECISION BY COURT. This action came under consideration before the Court. The issues considered and a decision has been rendered.

IT IS ORDERED AND ADJUDGE that the motion to stay (U.S.D.C. document #2) **IS DENIED.**

IT IS FURTHER ORDERED that the plaintiff's default judgement against Phillip Espinosa and Division Two of the Arizona Court of Appeals (U.S.D.C. Document #19) **IS DENIED.**

IT IS FURTHER ORDERED that the plaintiff's for default judgment against Pima County (U.S.D.C. document #20) **IS DENIED.**

IT IS FURTHER ORDERED that the plaintiff's motion for default judgment against Judge Stephen Desens (U.S.D.C. document #21) **IS DENIED.**

IT IS FURTHER ORDERED that the defendant Cochise County's Motion to Dismiss (U.S.D.C. document #21 and #23) IS Granted.

IT IS FURTHER ORDERED that the defendants State of Arizona, Division Two of the Arizona Court of Appeals, Cochise County Superior Court, Judge Espinosa, and Judge Desens' Motion to Dismiss (U.S.D.C. document #15) **IS GRANTED as to the Rooker-Feldman doctrine only.**

IT IS FURTHERED ORDERED that this case **IS DISMISSED WITH PREJUDICE.**

April 28, 2004

Richard Weare

Clerk

UNITED STATES DISTRICT COURT

DISTRICT OF ARIZONA

April 29, 2004

Calvin Roach	)
Plaintiff,	)
vs.	) CV-04-0001-TUC-
State of Arizona;	) FRZ
Cochise County; Hon. Judge Desens;	) ORDER
Pima County; Hon. Phillip Espinosa	)
Court of Appeald Div. II; and the	)
Superior Courts of Arizona in the County)	
Of Cochise	)
Defendants.	)

Pending before the Court are several motions filed by Plaintiff Calvin Roach. The first motion to stay "judgment" from the Arizona Court of Appeals and to stay "the time limit for filing a Motion for review with [the] Arizona Supreme Court." The remaining three are motions for default judgment against: (1) Defendants Judge Phillip Espinosa of the Court of Appeals, and Division Two of the Arizona Court of Appeals; (2) Judge Stephen Desens of Cochise County Superior Court; and (3) Pima County.

Also pending before the court are two motions to dismiss. Defendant Cochise County seeks to dismiss Roach's lawsuit for lack of jurisdictional matters based on the Rooker-Feldman doctrine. Defendants State of Arizona, Division Two of the Arizona Court of Appeals, Cochise County Superior Court, Judge Espinosa and Judge Desens, seeks to dismiss the case based on the Rooker-Feldman doctrine, and because (1) the State and its entities are entitled to immunity under the Eleventh Admendment, and (2) Judge Espinosa and Judge Desens are entitled to absolute judicial immunity.

Background

The issues raised in the complaint stems from rulings by Cochise County Superior Court Judge Desens in Roach's marital proceedings and from Roach's appeal of those rulings, which was resolved in the memorandum decision by Judge Espinosa of Division Two of the Arizona Court of Appeals[1].

All of Roach's allegations in his complaint are designated as violations of his constitutional rights. Roach alleges that, despite the fact that he stipulated to a division of his military retirement pay, Judge Desens, Roach's attorney, and his ex-

wife attorney divided the military pay incorrectly, in bad faith, and with fraudulent intent. He also alleges that Judge Desens ordered him to pay twice for his child's and step-son's medical and dental care. He also appears that Judge Desens should have been sanctioned for failing to recognize that ordering that Roach's ex-wife would have custody of Roach's child and step-son was not in the children's best interests.

He alleges that the Arizona Court of Appeals: (1) refuse to correct the erroneous division of his military pay, (2) failed to sanction Judge Desens when it overturned his ruling that Roach pay twice for his child's and step-son's medical and dental care, (3) failed to correct Judge Desens failure to make statutorily required by specific findings on the record concerning the best interests of the children, (4) misstate which issues Judge Desens had addressed, (5) erred in stating that Roach had admitted a domestic violence incident when all he had done was admit that he hit his ex-wife with a plate. Roach also contends that the Arizona Court of Appeals and Cochise County Superior Court deprived him of his constitutional rights by forcing him to expend money to appeal their erroneous rulings.

Roach also alleges that Judge Desens and the Arizona Court of Appeals permitted "State Statutes to be used to commit fraud" because his ex-wife attorney presented inaccurate information regarding hid ex-wife wages and their child's child care expenses.

[1] In recognition of the fact that the memorandum decision authored by Judge Espinosa was signed by Judge Espinosa and two other judges of Division Two of the Arizona Court of Appeals, the Court will refer to Judge Espinosa and Division Two of the Arizona Court of Appeals collectively as "the Arizona Court of Appeals."

He challenges the application of the Arizona child-support guidelines in his case, claiming that his ex-wife decision not to seek support from Roach's step-son's father ultimately increased the percentage of child-support that Roach had to pay for his own child. He also contends that he was deprived of the ability to use a "cafeteria plan" because the child support guidelines includes medical, dental and child care expenses as portion of his child support obligations. Finally, he contends that the "Family Court in the State of Arizona has created an unjust atmosphere in the County of Cochise and signaling to women that the Court will discriminate against the man regardless of faults." He alleges the Judge Desens and other judges in the Cochise County Superior Court are not impartial.

As relief in this case, Roach demands that his state court case and appeal be vacated and transferred to Maricopa County Superior Court and Division One of the Court of Appeals, respectively. He demands that "all of the Judges and citizens in the State of Arizona to include the Judges that are parties to [his] divorce case be held responsible for their malic[cious] acts, "State of Arizona be sanctioned and ordered to obey their State laws, rules of procedures and statutes and not attempt to cover up others['] misconduct," and that "everyone involved that conspired" be held responsible for the alleged miscalculations of the division of his military retirement pay and violating his constitutional rights. He also demands that the "Federal Bureau of Investigation (FBI) or other federal agency investigate family court practices of the last seven years" in Cochise County.

DISCUSSION

A. Motion to Dismiss

Both motions to dismiss seek dismissal on, among other grounds, the Rooker-Feldman doctrine. Under the doctrine, this court does not have subject matter jurisdiction over a federal case where "a plaintiff asserts legal wrong and allegedly erroneous decisions by a state court, and seeks relief from a state court judgment based on that decision." *Noel v. Hall,* 341 F. 3d 1148, 1164 (9th Cir. 2003). Such federal cases include those where the plaintiff complains of "harm caused by a state court judgment that withholds a benefit from (or imposes detriment on) the federal plaintiff, based on an allegedly erroneous ruling by that court" as well as those cases where a federal plaintiff complains of "a legal injury caused by state court judgment, based on allegedly erroneous rulings, in a case in which the federal plaintiff was one of the litigants. *Id.* at 1163. And it also includes cases where "the challenge to state court decision involves constitutional issues." *Branson v. Nott,* 62 F. 3d 287, 291(9th Cir. 1995).

Applying the Rooker-Feldman doctrine to this case, this court does not have jurisdiction over Roach's claim that errors by the state trial and appellate courts violates his constitutional rights and that those courts' rulings should be vacated. Nor does this court have jurisdiction over Roach's demand that this Court transfer his case and appeal to a different trial judge and different division of the Arizona Court of Appeals. *See Bianchi v. Rylaarsdam,* 334 F. 3d 895, 902 (9th Cir. 2003) (Bianchi wants a new hearing with a new panel of appellate justices-and, of course, he wants a different result. We cannot fathom, however, how a federal court could order this relief and command a state court to satisfy Bianchi's demands."). Nor does this Court have the jurisdiction to compel the Federal Bureau

of investigation to investigate domestic relations proceedings in Cochise County Superior Court. The Arizona courts, not this Court, are the appropriate place for Roach to direct his appeal, his request for transfer, and his allegations of judicial misconduct.

The Court rejects Roach's objection to Defendants State of Arizona, the Arizona Court of Appeals, Cochise County superior Court, Judge Espinosa, and Judge Desens' motion to dismiss because their attorneys did not file a formal notice of appearance.

Although Rule 1.7(a) of the Rules of Practice of the United States District Court for the District of Arizona (the Local Rule) states that "no attorney shall appear in any action or file anything in any action without first appearing as counsel of record," the Court concludes that, in this case, the attorneys for these Defendants adequately provided the Court and Roach with notice of appearance as counsel of record when they filed the motion to dismiss and answer on the clients' behalf. Thus, Roach objection fails[2].

Because the Court will grant the parties' motion to dismiss under the Rooker-Feldman doctrine, the court will not address the alternative grounds for dismissing this case against the State of Arizona, Division Two of the Arizona Court of Appeals, Judge Espinosa, Cochise County and Judge Desens.

B. Default Judgment

Roach has filed motions for default judgment against Judge Espinosa, Division Two of the Arizona Court of Appeals, Judge Desens, Pima County, claiming that they failed to timely answer his complaint. He is wrong.

Pima County was served on January 5, 2004. Pima County filed an answer, and mailed a copy to Roach, on January 20, 2004. Judge Espinosa and Judge Desens were served on January 5 and 7, 2004, respectively[3]. These defendants filed their answer, and mailed a copy to Roach, on January 26, 2004. The answers were timely filed. *See* Fed. R. Civ. P. 12(a)(1)(A) (requiring answering within twenty days after being served with the summons and complaint); Fed. R. Civ P. (6a) (Extending the deadlines for filing when it falls on a Saturday, Sunday, or legal holiday). Thus, the Court will deny the motions for default judgment. Thus, the Court will deny the motions for default judgment.

[2] The Court notes that Roach himself has not strictly complied with the requirements of the Local Rules. He did not file a Civil Cover Sheet as required by Local Rule 1.9(g)(1). In addition, his January 7, 2004 "Amend Complaint [;] Amend Claim for relief [;] List of Documents (Evidence)" fails to comply with the title page requirements of Rule 1.9(a). Despite these failings, the Court has considered his pleadings and arguments.

[3] Although Roach contends in his motion for default judgment that the Arizona Court of Appeals was served on January 6, 2004, there is nothing in the record to suggest that the Arizona Court of Appeals was served on that, or any other, day.

C. Motion to Stay

Roach has filed a motion to stay "the judgment from the Court of Appeals, Division Two[,] dated November 24, 2003," and to stay "time limit for filing a Motion for Review with [the] Arizona Supreme Court." Assuming that this Court has the authority to stay those deadlines, a dubious position at best, the Court, in its discretions declines to do so.

Conclusion

In light of the foregoing,

IT IS ORDERED that the Plaintiff's Motion to Stay (U.S.D.C. document #2) is **DENIED.**

IT IS FURTHER ORDERED that Plaintiff's Motion for Default Judgment against Pima County (U.S.D.C document #20) **IS DENIED.**

IT IS FURTHER ORDERED that Plaintiff's Motion for Default Judgment against Judge Stephen Desens (U.S.D.C. document #21 and #23) are **DENIED.**

IT IS FURTHER ORDERED that Defendant Cochise County Motion to Dismiss (U.S.D.C. document #12) is **GRANTED.**

IT IS FURTHER ORDERED that Defendants State of Arizona, Division Two of the Arizona Court of Appeals, Cochise County Superior Court, Judge Espinosa, and Judge Desens' Motion to Dismiss (U.S.D.C. Document #15) is **GRANTED** as to the Rooker-Feldman doctrine only.

IT IS FURTHER ORDERED that this case is **DISMISSED WITH PREJUDICE.**

The Clerk of the court is directed to enter judgment accordingly.

DATED this 27th day of April, 2003.

Frank R. Zapata,

United States District Judge

Appendix C

Opening Brief to Ninth Circuit Court

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

Calvin P. Roach CASE NO. 04-16178

Appellant/Petitioner

vs.

Pima County and Cochise County and State of Arizona and
Hon. Phillip Espinosa and Hon. Stephen Desens

Appellee/Respondent

APPELANT'S OR PETITIONER'S OPPENING BRIEF

1. Jurisdiction

a. Timeliness of Appeal or Petition:

(i) Date of entry of judgment or order of District court: 27 April 2004

(ii) Date of Services of any motions made after judgment N/A

(iii) Date of Entry of Order deciding motion N/A

(iv) Date notice of appeal or petition filed 21 May 2004

(v) For Prisoners, date you gave notice of appeal to prisoner authorities N/A

b. PLEASE ATTACH ONE COPY OF THE FOLLOWING:

1. The order from which you are appealing
2. The district court's entry of judgment

3. the district court docket sheet

2. What are the facts of your case?

I filed a lawsuit against the defendants in this case for because of their organized criminal conduct. All of the defendants answered the complaint except Cochise County. I filed a default judgment against all of the defendants that did not properly file a motion of substitution for representation; therefore, I'll know whom I am responding to and for what defendant. Each defendant filed a motion to dismiss. The court dismissed the complaint for lack of jurisdiction, Rooker-Feldman's Doctrine ONLY. This case never went to trial. I am now appealing that order.

3. What did you ask the district court to do for example, award, damages, give injunctive relief, order release from prison, etc.)? Injunctive relief in the form of:

I demand that the trial case # 2 CA-CV 2001-0215 (D0200000410) removed from the Jurisdiction of State Courts of Arizona, County of Cochise and the Court of Appeals Division II that is located in Tucson Arizona and be delivered to the Superior Court in the County of Maricopa and Division I Courts of Appeals in the State of Arizona. All cost related to this case be taxed to Pima County and Cochise County. The State and counties are obligated by Federal Constitution that every citizen of the United States is obliged a fair trial, due process, both administrative and judicial – that processed I was not afforded. This is to include that the Orders giving in this case by the Superior Courts of Arizona and The Court of Appeals be vacated. I am entitled to an impartial judge and setting by the United States Constitution. There are too many bias judges in Cochise County and on the Courts of Appeals, Division II. The 14th amendment of the United States Constitution states, "A defendant has a constitutional right not to be tried before a judge who is bias against him." Milligan v. Stone, DC Cal.1976, 424 F.Supp 1088.

I demand that all of the Judges and citizens in the State of Arizona to include the Judges that are parties to my divorce case be held responsible for their malice acts. The United States Constitution gives State judges absolute immunity from civil remedies only.

I demand that the State of Arizona be sanctioned and ordered to obey their State laws, rules of procedures and statutes and not to attempt to cover up others misconduct.

I demand that the Federal Bureau of Investigation (FBI) or other Federal agency investigate the family court practices of the last seven years

that were held in the County of Cochise to determine the extend of damage the Judges of the Superior Court for the County of Cochise has caused as well as fraudulent or bias findings and rulings. Upon final determination Judges that had taken part to misuse the judicial system be held responsible for their acts.

I demand that I be protected from the State of Arizona from all criminal and civil allegations that they may try to trump me with arising from prior till the conclusion of this case.

I demand that everyone involved that conspired against me by violating 10 USC 1408 and my Constitutional Rights be held responsible under Federal Statutes and Titles.

Request reasonable attorney fees, court costs and preparation fees. These fees should be granted because I would not have to suit the State if the state abided by both State and Federal Constitution.

4. State your claim or claims you raised at district court.

a. The Court conspired with attorney's to extort monies due to me and direct the monies to my ex-wife.

b. State judges willfully neglected to enforce both State and Federal Law.

c. The State created and enforced State statutes to allow party to commit fraud. This is a direct violation of the 14th amendment.

d. The State of Arizona created a bias atmosphere that includes appeal judges to miss state court document in support of attorney misconduct.

e. The State acknowledges the fact that the family court judge failed to abide by the laws and punished me for the judge failing to abide by the statute.

f. I was not afforded impartial judges even at the appeal level. The appeal judge made claims for the family court judge that the family court judge did not make.

g. Judges uses state court to allow my ex-wife to use family court for acts that violated my equal protection of law guarantees under the US Constitution.

h. State enforced child-care on top of my child support, medical and dental insurance preventing me from taking advantage of IRS 125 program.

i. The family court in Cochise County is bias and made it clear of

their negative feelings toward men.

5. What issues are you raising on your appeal?

The issues that I am raising on this appeal are:

- Dismissing the case under the Rooker-Feldman Doctrine
- Giving the state judges immunity in this case
- Denying the motion of stay
- No default judgment against Cochise County for failing to answer the complaint; instead they filed a motion to dismiss

This case was dismissed with prejudice under the Rooker-Feldman's Doctrine. This doctrine is only applicable to appeals from state court. The premise of this case is new questions in determining conspiracy against men in family court by state officials. This case should not have been dismissed with prejudice for lack of jurisdiction because the district court has jurisdiction to this case. The United States Supreme Court have ruled that state judges in some instances cannot enjoy immunity for their behavior unless it is for damages (money) **Dennis v. Sparks, 449 US 24; 101 S. Ct. 183; 66 L. Ed 2d 185 (1980):**

"n1 All defendants moved to dismiss, the judge asserting judicial immunity and other defendants urging dismissal for failure to allege action "Under Color" of state law, a necessary component pf a §1983 cause of action. The District Court concluded because this injunction was within the jurisdiction of the State court, the judge was immune from liability in a §1983 suit, whether or not the injunction had issued as the result of corrupt conspiracy.

n6 A state judge can be found criminally liable under §242 although that judge may be immune from damages under §1983...In either case the judge acted under the color of state law...

But there is no similar constitutionally based privilege immunizing judges from being required to testify about their judicial conduct in third-party litigation. Nor has any demonstration been made not only protected the judge from liability but also excused him from responding as a witness..."

Because this case is not under 42 USC 1983, I am obligated to have my day

in court against the defendants in my quest to show conspiracy. Also, this case should not have been dismissed with prejudice because under 42 USC 1983, I can bring a lawsuit against the individuals that conspired with the state, even though state judges are immune.

In **Smith v. Ames 169 US 466 (1898)**, the Supreme Court ruled Suits against individuals for purpose preventing them, as officers of state, from enforcing unconstitutional enactment to injury of rights of plaintiff, is not suit against state within the meaning of the 11th amendment. From the start of this suit, it was to prevent officers of the state from enforcing unconstitutional enactments against myself. During the preliminaries upon entering all my evidence I then could have filed a motion to reclassify this case as a class-action suit, not being for monetary damages.

Furthermore, in **Schever v. Rhodes (1974), 416 U.S. 232, 40 L.Ed. 2d 90**, the U.S. Supreme Court stated that the 11th amendment provides no shield for state official confronted by claims that they deprived another from Federal Rights under the color of state law in actions for damages. Because judges are shielded when the damages are seek are monetary, this interpretation would not apply because this case is not a suit for financial damages. Cleary in **Blaylock v. Schwinder, 862 F.2d 1352**, the 11th amendment bars civil right actions against state official capacity since suit sought monetary damages. The U.S. Supreme Court made it clear that State judges are not guaranteed immunity by acts they commit even on official duty **Pulliam, Magistrate For the County of Culpeper, Virginia v. Allen (1984), 466 U.S. 522; 104 S.Ct. 1970; 80 L.Ed. 2d 565 n1**

"Respondent Allen also challenged the failure of the trial judge to provide a first appearance, to appoint counsel, and to advise Allen of his rights during incarceration. The District Court dismissed the claim against the trial judge because "he played no direct role in the pretrial detention of either plaintiff." App. 31-32.

n7 Although there were no injunctions against common-law judges, there is a common-law parallel to the§ 1983 injunction at issue here. That parallel is found in the collateral prospective relief available against judges through the use of the King's prerogative writs. A brief excursion into common-law history helps to explain the relevance of these writs to the question whether principles of common-law immunity bar injunctive relief against a judicial officer.

n17 When the question is whether a federal court should enjoin a pending state-court proceeding, "even irreparable injury is insufficient unless it is 'both great and immediate.'" Younger v. Harris, 401 U.S. 37, 46 (1971), quoting Fenner v. Boykin, 271 U.S 240, 243-244 (1926). See discussion at n. 19, infra

n20 If the Court were to employ principles of judicial immunity to enhance further the limitations already imposed by principles of comity and federalism on the availability of injunctive relief against a state judge, it would foreclose relief in situations where, in the opinion of a federal judge, that relief is constitutionally required and necessary to prevent irreparable harm. Absent some basis for determining that such a result is compelled, either by the principles of judicial immunity, derived from the common law and not explicitly abrogated by Congress, or by Congress' own intent to limit the relief available under § 1983, we are unwilling to impose those limits ourselves on the remedy Congress provided.

n21 The Court assumed that the judge was performing a ministerial rather than a judicial function. It went on to conclude, however, that even if the judge had been performing a judicial function, he would be liable under the statute, 100 U.S., at 348-349.

[4] Much has changed since the Civil Rights Acts were passed. It no longer is proper to assume that a state court will not act to prevent a federal constitutional deprivation or that a state judge will be implicated in that deprivation. We remain steadfast in our conclusion, nevertheless, that Congress intended § 1983 to be an independent protection for federal rights and find nothing to suggest that Congress intended to expand the common-law doctrine of judicial immunity to insulate state judges completely from federal [*34] collateral review.

n23 As further indication of Congress' intent that § 1988 apply to judicial officers, the House Report contains a citation to Pierson v. Ray, 386 U.S. 547 (1967). Petitioner suggests that the citation to Pierson refers to another aspect of the decision, regarding qualified immunities of officials in the Executive Branch. We see no need to adopt such a strained interpretation. The House Report clearly referred to public officials against whom damages were precluded, as well as those against whom damages were limited. Of the three cases cited by the House Report, only Pierson involved complete preclusion of a damages award."

Evan though state judges enjoy the immunity from 42§1983, they can be found criminally liable under 18 USC 242, **(Dennis v. Sparks (1980), 449 U.S. 24; 101 S. Ct. 183; 66 L. Ed. 2d 185)**. The courts have authority to get the FBI to investigate the mob-related activities conduct of the State Court of Arizona, **Virginia v. Allen**-n17. The US Supreme Court found nothing to exclude judges from collateral review and the State of Arizona has laws that allow the court actions when reviewed.

In the complaints I submitted for this case, I have showed reasonable doubt about judges using family court to conspire with women against myself and

other men to rob them of their guaranteed rights that included court cases where the judge basically stated that he didn't believe in the law. I have shown that the judges in this case behavior was not good and that violates **Article III, Section 1 of the United States Constitution, "The judicial Power of the United States, shall be vested in one supreme Court, and in such inferior Courts as the Congress may from time to time ordain and establish. The Judges, both of the supreme and inferior Courts, shall hold their Offices during good Behavior, and shall, at stated Times, receive for their Services, a Compensation, which shall not be diminished during their Continuance in Office".**

Under this section of the US Constitution, judges are entitled to hold office and receive compensation for their service only for good behavior. The behavior shown by several of judges in the Superior Court of Arizona, County of Cochise is far from being good. Bad behavior from Cochise County judges in habitual and a normal way of doing business in family court. This behavior is echoed by the Court of Appeals, Division II as shown in the complaint of the lawsuit. This case should not have been dismissed.

The district court judge erred on dismissing eh Motion of Stay even though the district court judge considered himself in a dubious position. The defendants gave jurisdiction on that matter to the federal government by not opposing the motion. The defendant's agreed to the motion of stay by not filing any opposition to the motion that is required under federal rules.

6. Did you present all of these issues to district court?

Yes/No YES If not, why?

I did not raise the issue for default judgment against Cochise County attachment three of the federal form, Summons in a Civil Case states: **"YOU ARE HEREBY SUMMONED** and served on PLAINIFF"S ATTORNEY an answer to the complaint on which is served on you in this summons, _____..., if you fail to do so, judgment by default will be taken against you for the claim for the relief demanded in the complaint."

Respondent/defendant's did not file an answer and the State cannot use a Motion for Dismiss as an ANSWER and visa versus, especially if the document does not state that it is used for both statuses. The taxonomy of the document purposes is different.

7. What law supports these issues on appeal? (You may, but need not, refer to cases or statutes)

US Constitution, Article III, Section 1

Smith v. Ames,	169 US 466 (1898)
Schever v. Rhodes,	416 US 232 (1974), 40 L. Ed 2d 90
Pulliam v. Allen	466 US 522 (1984); 104 S. Ct 1970; 80 L. Ed 2d 565
Blaylock v. Schwinder,	862 F. 2d 1352

8. Do you have any other cases pending this court? If so, give the name and docket number of each case. No
9. Have you filed any previous cases, which have been decided by this court? If so, give the name and docket number of each case. No
10. For Prisoners, did you exhaust all administrative remedies for each claim prior to filing your complaint in district court? N/A

Appendix D

Appeal to the Ninth Circuit Court of Appeals

Office of the Clerk
United States Court of Appeals for the Ninth Circuit
95 Seventh Street
Post Office Box 193939
San Francisco, California 94119-3939

April 27, 2005

USDC, Tucson
District of Arizona (Tucson)
U.S. Courthouse
Tucson, AZ 85701

No.	Title Agency/D.C. No.	
04-16178	Roach v. State of AZ	CV-04-00001-FRZ

Dear Clerk:

The following document in the above listed cause is being sent to you under cover of this letter.

- *Certified copy of the Decree of the Court*

The record on appeal will follow under separate cover. Please acknowledge receipt on the enclosed copy of this letter.

Very truly yours,
Cathy A. Catterson
Clerk of Court

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

CALVIN ROACH,	) No. 04-16178
	) D.C. No. CV-04-00001-FRZ
Plaintiff - Appellant,	)
	)
v.	)
	) **JUDGMENT**
STATE OF ARIZONA; et al.,	)
	)
Defendants – Appellees.	)

Appeal from the United States District Court for the District of Arizona (Tucson).

This cause came on to be heard on the Transcript of the Record from the United States District Court for the District of Arizona (Tucson) and was duly submitted.

On consideration whereof, it is now here ordered and adjudged by this Court, that the judgment of the said District Court in this cause be, and hereby is **AFFIRMED**.

Filed and entered Monday, April 04, 2005

Calvin Roach

1777 Calle Ventana

Sierra Vista, AZ 85635

04-16178

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

CALVIN ROACH, Plaintiff - Appellant,)FRZ	)No. 04-16178)D.C. No. CV-04-00001
v.	)
STATE OF ARIZONA; et al.,	) **MEMORANDUM**
Defendants – Appellees.	)

Appeal from the United States District Court
For the District of Arizona
Frank R. Zapata, District Judge, Presiding

Submitted March 23, 2005**

Before: B. FLETCHER, TROTT, and PAEZ, Circuit Judges.

Calvin Roach appeals pro se the district court's dismissal for lack of subject matter jurisdiction of his 42 U.S.C. § 1983 action alleging constitutional violations arising from his marital dissolution proceedings. We have jurisdiction under 28 U.S.C. § 1291. We review de novo, *Bianchi v. Rylaarsdam*, 334 F.3d 895, 898 (9th Cir. 2003), and we affirm.

* This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except as provided by Ninth Circuit Rule 36-3.

** The panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

Because Roach's complaint asserted claims relating to the allegedly erroneous rulings of the Cochise County Superior Court and the Arizona Court of

Appeals, and sought to have the state court judgments vacated, the district court properly dismissed his action under the Rooker-Feldman doctrine. *See Noel v. Hall*, 341 F.3d 1148, 1163 ("It is a forbidden de facto appeal under Rooker-Feldman when the plaintiff in federal district court complains of a legal wrong allegedly committed by the state court, ands seeks relief from the judgment of that court.").

Roach's remaining contentions lack merit.

Roach's motion to file one combined reply brief is granted.

AFFIRMED.